

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: May 28, 2010

POSITION: Oppose

SPONSOR: California Advocates for Nursing Home Reform
(CANHR)

BILL NUMBER: AB 2555

AUTHOR: M. Feuer

RELATED BILLS: AB 392, AB 935

BILL SUMMARY: Ombudsman Programs: Appropriation

This urgency bill would appropriate \$1,600,000 one time from the State Health Facilities Citation Penalties Account (Fund 0942-601) to the California Department of Aging (CDA) to fund local ombudsman programs in 2010-11. Any unencumbered funds would revert back to the State Health Facilities Citation Fund.

FISCAL SUMMARY

The Governor's proposed budget for 2010-11 provides \$4,168,000 for the Ombudsman Program, including \$2,726,000 federal Older Americans Act funds, \$762,000 Federal Health Facilities Penalties Account funds, and \$680,000 General Fund. The 2009-10 budget provided \$5,768,000 for the program, including a one-time appropriation of \$1.6 million from the Federal Health Facilities Penalties Account authorized (Ch. 102, Statutes of 2009). Due to a subsequent and unanticipated shortfall of approximately \$700,000 in this account, the Department of Public Health (DPH) is providing a \$700,000 General Fund loan to CDA to fund the Ombudsman Program at the 2009-10 appropriation level.

This bill would maintain the Ombudsman Program funding in 2010-11 at the 2009-10 level by appropriating \$1.6 million from the State Health Facilities Citation Account. The account has an estimated \$4.2 million balance, excluding the proposed appropriation in this bill. This account is used primarily for the maintenance of skilled nursing facilities operations pending correction of deficiencies or closure, such as temporary management or receivership, and relocation expenses incurred by DPH in the event of a facility closure. Expenditures in this fund have averaged \$1.7 million over the last two years and are projected at \$2.2 million for 2010-11. Funds available in this account vary from year to year depending on the number of citation penalties collected and the number of facility closures requiring temporary management or receivership.

The proposed \$1.6 million appropriation could adversely impact the department's ability to contract with a temporary management agency in future years (if the fund balance is depleted) if a facility needs to be taken over to protect the patients' welfare. To the extent that the Legislature desires to continue funding the program at its current level, on ongoing General Fund pressure of \$1.6 million would result once alternative fund sources are depleted.

COMMENTS

The Department of Finance (DOF) opposes this bill for the following reasons:

1. The proposed fund source for augmenting the Ombudsman is currently authorized for use to protect the welfare of long term care residents including relocation, maintenance of facility operations, reimbursing residents for personal funds lost, and public meetings. Using the funds for the Ombudsman instead may inadvertently deplete the amount of funds available for current activities.

Analyst/Principal (0561) T. Williams	Date	Program Budget Manager Lisa Ann L. Mangat	Date
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Department Deputy Director	Date
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Governor's Office:	By:	Date:	Position Approved _____
			Position Disapproved _____

BILL ANALYSIS	Form DF-43 (Rev 03/95 Buff)
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2. Funding for the Ombudsman is subject to the availability of funds. Resources are not available to maintain the program at the 2009-10 level indefinitely. Federal penalty funds are being depleted, and although the proposed state penalty fund currently has an adequate reserve to support a one-time appropriation for this purpose, the fund balance would be substantially reduced as a result.
3. Substantial Ombudsman activities (approximately \$4.2 million worth of services) will be provided even if the budget is reduced in 2010-11, like many other programs due to the state of the economy.

An alternative option being considered by the 2010-11 Budget Conference Committee would designate an unspecified amount of revenue generated from the Quality Assurance Fee (assessed on skilled nursing facilities through the AB 1629 program) to support the Ombudsman program.

In addition, AB 935 also proposes earmarking designated funds for the Ombudsman.

		SO	(Fiscal Impact by Fiscal Year)						
Code/Department		LA	(Dollars in Thousands)						
Agency or Revenue	CO	PROP							
Type	RV	98	FC	2009-2010	FC	2010-2011	FC	2011-2012	Fund Code
4170/Dept Aging	LA	No		--	A	\$1,600		--	0942
<u>Fund Code</u>	<u>Title</u>								
0942	Special Deposit Fund								